

RULS - AD - 1980-390

10/24/1980

Re: Ltr from G. Raymond to Judge Leahy about "specific  
unit count for the project"

3 pgs.

Notes

The blank page was not included in the <sup>page</sup> count

# RPPW

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October 24, 1980

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Re: Bedminster Township ads.  
Allan-Deane Corporation

Honorable B. Thomas Leahy  
Superior Court of New Jersey  
Court House Annex  
Somerville, New Jersey 08876

My dear Judge Leahy:

This is written in response to Mr. Ferguson's request in his letter to you dated October 23, 1980 that I give you my opinion regarding Allan-Deane's hope that the Court will order the vesting of a specific unit count for its project.

In my report to you dated October 9, 1980, I urged that, in your final Order, you explicitly express the Court's intent that the developer receive the full benefit of the applicable zoning (i.e. a number of units equal to the number of acres in each zone multiplied by the permitted number of units per acre) so long as its plans comply with the provisions of all applicable regulations. I did not feel then, nor do I feel now, that it would be reasonable to mandate that the Township be bound to accept a stated total number of units without a clear showing that each proposed sub-area of the development has the capacity required for the aggregate number of units to equal the maximum number permitted under the ordinance.

To illustrate, the ordinance entitles the developer to 10 units per acre in the entire PUD zone. Voluntarily, perhaps for reasons related to marketing considerations, the developer could opt for development of the first sections at densities considerably below those that he used in the process of determining the overall capacity of the site. To achieve all the units he is theoretically entitled to build, he would therefore have to increase the density of the remaining sections to a level that might exceed their capacity as determined by using good planning standards. Thus, an avoidable course of action adopted unilaterally by the developer might cause the Township to have to accept many more high-rise buildings than it anticipated, etc.

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In order to avoid later disputes to the extent possible, I have urged Allan-Deane to develop an illustrative, non-binding site plan for all sections of the PUD portions of the development for which it is now preparing a Phase I - Preliminary Approval application. My intent in doing so was (1) to enable Allan-Deane to re-test the capacity of all sub-sections of the development using the building types permitted or required by the ordinance and thereby demonstrate the area's ability to accommodate in the aggregate a number of units equal to ten times the number of acres proposed for residential use; and (2) to give the Township a good idea of the type of community that would probably be the ultimate result of its approval of the Phase I - Preliminary application and, by doing so, make it difficult for the Township to interpose subjective objections to the basic features of subsequent phases.

This procedure would leave the developer free to change the design and layout of subsequent phases in response to engineering determinants or marketing considerations. So long as any such changes would continue to comply with all applicable regulations, and the total number of units would remain within the limits established under the zoning ordinance, I feel that any future attempt by the Township to change the rules could be easily neutralized on two grounds: (1) the development would be in compliance with the ordinance; and (2) at the time of initial approval of the entire concept, as set forth in the developer's Phase I - Preliminary Approval application, the Township was given a clear indication of its implications and was fully aware of the ultimate results.


I quite understand that the preparation of even illustrative site plans for all sections is costly. I also understand the reluctance of the developer to even appear to commit itself to the future use of specific building types and site layouts. Nevertheless, I feel that the Township should not be asked to give the developer carte blanche, particularly since, as I mentioned in my October 9, 1980 report, I feel very strongly that the Court Order and the mandated process assure that the developer will be treated fairly in any future review of changes from the proposed illustrative site plan.

I think that I should also inform the Court that the topographic studies that purportedly identified certain lands with less than 15 percent slopes in areas that have so far been assumed to have

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15 percent or greater slopes have not been shown to me or to any of my associates, nor -- to the best of my knowledge -- to any representatives of the Township. Since the number of units claimed by Allan-Deane in Mr. Hill's letter of October 17, 1980, is based on the validity of these studies, I feel that it would be premature for the Court to accept the assertions contained in that letter.

Respectfully yours,

  
George M. Raymond, AICP, AIA, P.P.  
President

GMR:kfv

cc: Alfred L. Ferguson, Esq.  
Henry A. Hill, Jr., Esq.  
Charles K. Agle  
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Township Clerk, Bedminster